



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE SUITE 3000
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720
Ser 14/368
August 14, 2015

Mr. Hugh Tulloch

(b) (6)

SUBJECT: FREEDOM OF INFORMATION ACT APPEAL DON-NAVY-2015-007860

This responds to your Freedom of Information Act (FOIA) appeal that was submitted via FOIAOnline on July 25, 2015 and received by our office the same day. In your appeal, you challenge the response from the Chief of Naval Operations' FOIA office (DNS-36) stating that there are no agency records regarding Commodore Samuel Clement.

Your appeal is a request for a final determination under the FOIA. For the reasons stated below, I deny your appeal.

The adequacy of an agency's search under the FOIA is determined by a test of reasonableness, which may vary from case to case. An agency must undertake a search that is reasonably calculated to uncover all relevant documents. Furthermore, the mere speculation that requested documents exist does not undermine the finding that the agency conducted a reasonable search. I find that DNS-36's search was reasonable.

In your response, you expressed surprise at the idea that someone who was a Naval officer for 40 years would have no records; to clarify, while the Navy has no records on Commodore Clement, such records may exist elsewhere. The Navy only maintains personnel records on those servicemembers who have died, been discharged, or retired since January 1, 1995. Given that you said Commodore Clement died in 1952, the Navy would no longer have possession of these documents. Any documents concerning Commodore Clement would be contained in the National Personnel Records Center (NPRC) as was mentioned in DNS-36's response to you.

I am enclosing the SF-180 form needed to request military records from NPRC. You may make such a request online, via e-mail, or you may complete the form and mail it to:

National Personnel Records Center
(Military Personnel Records)

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1 Archives Drive
St. Louis, MO 63138-1002

You may also find information on how to request military records online at <http://www.archives.gov/st-louis/archival-programs/military-personnel-archival/ompf-archival-requests.html>.

Because all records for personnel who died prior to 1953 are archival, any records that NPRC has will be open to the public and no Freedom of Information Act request is necessary nor are you required to be next-of-kin to the deceased servicemember. Be aware that there may still be a fee associated with duplicating and mailing the records and some third party information may still not be releasable.

As the Department of the Navy's designated adjudication official for this FOIA appeal, I am responsible for this final decision. You may seek judicial review of this decision. If you have any questions regarding this case, please contact Lieutenant (b) (6), JAGC, USN, who may be reached at (b) (6) @navy.mil or (b) (6).

Sincerely,

G. E. LATTIN
Director
General Litigation Division

Enclosure: Standard Form 180, "Request Pertaining to Military Records"

Copy to:
DNS-36